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16 UNITED STATES DISTRICT COURT  
17 SOUTHERN DISTRICT OF CALIFORNIA

18 APPLE INC.,  
19 Plaintiff,  
20 v.  
21 WI-LAN, INC.,  
22 Defendant.  
23

24 AND RELATED  
25 COUNTERCLAIMS  
26  
27  
28

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CASE NO. 3:14-cv-02235-DMS-BLM  
(lead case);  
CASE NO. 3:14-cv-1507-DMS-BLM  
(consolidated)

**APPLE INC.'S NOTICE OF *EX PARTE*  
MOTION TO STRIKE NEW  
STANWOOD DECLARATION  
SUBMITTED WITH WI-LAN'S  
REPLY BRIEF [DKT. NO. 189]**

Dept: 13A  
Judge: Hon. Dana M. Sabraw  
Magistrate Judge: Hon. Barbara L. Major

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiff Apple Inc. respectfully requests an  
3 order striking as untimely the Declaration of Kenneth Stanwood in Support of Wi-  
4 LAN Inc.'s Reply Brief in Support of Its Motion to Compel (Dkt. No. 189-1) and  
5 the new arguments in the reply brief that rely on or cite to the untimely Stanwood  
6 declaration (Dkt. No. 189). In the alternative, Apple respectfully requests leave to  
7 submit a brief sur-reply to respond to Wi-LAN's untimely evidence and argument.  
8 At a minimum, the requested relief is appropriate because the untimely Stanwood  
9 declaration and the new arguments in the reply brief fail to comply with Civil Local  
10 Rule 7.1(f)(1).

11 This Motion is based on this Notice of *Ex Parte* Motion, the accompanying  
12 Memorandum of Points and Authorities, the supporting declaration and exhibits  
13 attached thereto, all of which are served and filed herewith, the complete records  
14 and files of this action, and any argument or additional evidence that is permitted by  
15 this Court.

16 Apple is without fault in creating the need for *ex parte* relief before the Court  
17 rules on Wi-LAN's motion to compel, and Apple will suffer prejudice if the new  
18 material submitted in support of the reply brief is not stricken and/or Apple is  
19 unable to address that new material in a sur-reply brief.

20 On November 6, 2017, counsel for Wi-LAN stated it would oppose this  
21 motion. Anderson Decl., ¶ 5.

1 Dated: November 6, 2017

2 DLA PIPER LLP (US)

3 By /s/ Sean C. Cunningham

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 2017, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants.

/s/ Sean C. Cunningham  
Sean C. Cunningham